

USDC SDNY  
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STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

MEMO ENDORSED

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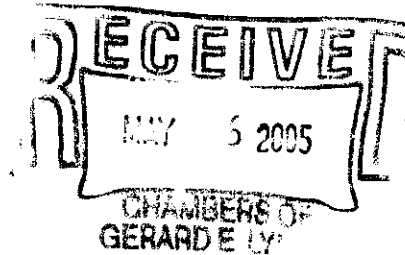
RICHARD RIFKIN  
Deputy Attorney General  
State Counsel Division

May 5, 2005

JAMES B. HENLY  
Assistant Attorney General in Charge  
Litigation Bureau

By Hand

The Honorable Gerard E. Lynch  
United States District Judge  
United States Courthouse  
40 Centre Street  
New York, New York



Re: Bernstein v. Pataki, et al., USDC, SDNY, Case No.: 05-CV-1322 (GEL)

Dear Judge Lynch:

This office represents the Defendants in the above-referenced action, which concerns a claim that certain incapacitated criminal defendants subject to Section 730.40 of the New York Criminal Procedure Law ("CPL") have experienced violations of their due process and equal protection rights. On March 23, 2005, Defendants moved to dismiss the Complaint. That motion was fully briefed as of April 13, 2005. On April 21, 2005, Plaintiffs filed a motion for class certification. Pursuant to Local Rule 6.1, Defendants' response to Plaintiffs' motion is due on May 5, 2005.

Defendants believe that further briefing of Plaintiffs' motion for class certification prior to the resolution of Defendants' motion to dismiss may result in a waste of judicial resources and the resources of counsel for all parties. Accordingly, I respectfully request that Defendants' obligation to oppose Plaintiffs' class certification motion be deferred or adjourned until this Court has decided or resolved Defendants' motion to dismiss.

If the Court is not inclined to grant the above request, I respectfully request an extension of time for Defendants to respond to Plaintiffs' motion. I have discussed the requested extension with Plaintiffs' counsel and Plaintiffs' counsel was willing to agree to an extension to May 26, 2005. However, my schedule makes this extension insufficient. Among other things, in the next two weeks I will be taking and defending three Court-ordered depositions in Cosentino v. Office of Mental Retardation and Developmental Disabilities, 04-CV-4159 (AKH). A fourth deposition in this case is scheduled for May 27, 2005. In addition, I recently have been

TO: Honorable Lois Bloom

May 5, 2005

RE: Anderson v. Gellery, et al.,

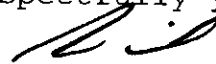
USDC, SDNY, Case No.: 04-CV-5374 (DLI) (LB)

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assigned to try Matter of George T. v. Carmichael, a two or three day jury trial scheduled to begin in State Supreme Court, Bronx County beginning on May 23, 2005. Finally, I will be out of the country from May 29, 2005 to June 11, 2005. Due to these scheduling difficulties, I would respectfully request an extension of time to respond to June 23, 2005.

I appreciate your consideration of this request.

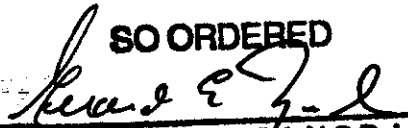
Respectfully yours,



Jamila A. Berridge (9065)  
Assistant Attorney General

cc: Sadie Zea Ishee, Esq. (via facsimile)

*Defendants' time to respond to plaintiff's class  
certification motion is extended to June 3, 2005.  
No further extension will be granted.*

SO ORDERED  
  
GERARD E. LYNCH, U.S.D.J.  
5/10/05